D.B. SPECIAL APPEAL (W) NO.715/2007

DATE OF ORDER : 02.08.2007

HON'BLE MR. JUSTICE P.B. MAJMUDAR
HON'BLE MR. JUSTICE DEO NARAYAN THANVI

Mr. Dilip Kawadia for the appellants.

Heard learned counsel for the appellants.

This special appeal has been filed against the interim order passed by the learned Single Judge in S.B.Civil Writ Petition No.4447/2006. While, admitting the writ petition, stay order has been granted by the learned Single Judge to the effect that the operation of the impugned order shall remain stayed and the respondent herein was permitted to undertake the basic repairs of the premises and was allowed to restore the two rooms as it was alleged that two rooms in question have fallen down due to rain after filing of the writ petition. Learned Single Judge has made it very clear that the original petitioner of the writ petition (respondent herein) will not claim any benefit out of the same on the ground that two rooms have been restored during the pendency of the writ petition.

In our view, the order of the learned Single Judge calls for no interference by this Court. However, we make it clear that whatever repairing, maintenance or construction have been

carried out in view of the order of the learned Single Judge, the same will not effect the suit, as the cause of action has to be seen from the date when the suit was filed.

Subject to the said clarification, this special appeal stands dismissed.

(DEO NARAYAN THANVI), J. **(P.B.MAJMUDAR), J.**

ms rathore